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DEC - 6, 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
Simplification of the )  
Depreciation Prescription )  
Process )

CC Docket No. 92-296

PETITION FOR RECONSIDERATION

U S WEST Communications, Inc. ("U S WEST"), through counsel and pursuant to Section 1.106 of the Federal Communications Commission's ("Commission") Rules,<sup>1</sup> hereby requests that the Commission reconsider its Order adopting depreciation simplification plans for American Telephone and Telegraph Company ("AT&T") and local exchange carriers ("LEC") in the above-captioned proceeding.<sup>2</sup> Specifically, U S WEST asks that the Commission modify its Order to allow price cap LECs the same flexibility in depreciating capital investments as has been granted AT&T. With price cap regulation, increasing competition and rapidly changing technology there is no justification for not allowing price cap LECs to use the "Price Cap Option" for depreciation purposes. LECs must have the ability to establish realistic depreciation rates if they are to avoid compounding an already severe depreciation reserve deficiency problem.

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<sup>1</sup>47 CFR § 1.106.

<sup>2</sup>In the Matter of Simplification of the Depreciation Prescription Process, CC Docket No. 92-296, Report and Order, FCC 93-452, rel. Oct. 20, 1993 ("Order" or "Depreciation Simplification Order").

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Alternatively, if the Commission declines to prescribe the Price Cap Option for price cap LECs, U S WEST requests that the Commission modify the Basic Factors Range (or "BFR") Option as described in the United States Telephone Association's ("USTA") Petition for Reconsideration filed herein December 3, 1993.

I. ON RECONSIDERATION, THE COMMISSION SHOULD PRESCRIBE THE PRICE CAP OPTION FOR LECs

In its Order, the Commission prescribed the Price Cap Option for AT&T but declined to do so for price cap LECs. The Commission based this differential treatment on the grounds that price cap LECs faced insufficient competition to warrant additional flexibility and that the existence of the sharing mechanism gave LECs an incentive to manipulate earnings via depreciation expense.<sup>3</sup> The Commission also noted that it would revisit the issue of depreciation reform for LECs as circumstances change.<sup>4</sup>

Regardless of the continued existence of sharing and the current level of local exchange competition, circumstances have changed dramatically since both the issuance of the Commission's NPRM<sup>5</sup> and adoption of its Order in this proceeding. These changed circumstances in themselves justify a modification of the Commission's Order to allow price cap LECs to use the Price Cap

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<sup>3</sup>See id. ¶¶ 27, 28.

<sup>4</sup>See id. ¶ 5.

<sup>5</sup>In the Matter of Simplification of the Depreciation Process, Notice of Proposed Rulemaking, 8 FCC Rcd. 146 (1992) ("NPRM").

Option. Depreciation rates must be prescribed on the basis of realistic expectations of future competition and technological change, not past history.

During the short time since the NPRM was issued, U S WEST has announced and closed an agreement to acquire a 25.1% interest in Time Warner Entertainment Company, L.P. ("TWE") which will deploy full service networks in areas served by TWE's cable interests.<sup>6</sup> Similarly, the Bell Atlantic Telephone Companies ("Bell Atlantic") have announced their intention to purchase Tele-Communications, Inc. ("TCI") and offer competitive telecommunications services in TCI's service area.<sup>7</sup> Five of the nation's largest cable companies: TCI; Time Warner, Inc.; Comcast Cable Communications, Inc.; Cox Enterprises, Inc.; and Continental Cablevision, Inc., announced their intent "to form a joint venture that would organize local cable operators in large markets to compete with regional telephone companies."<sup>8</sup> Throughout 1993, numerous price cap LECs have indicated their

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<sup>6</sup>The U S WEST and TWE agreement was announced on May 17, 1993, and concluded on September 15, 1993. See Telecommunications Reports, May 24, 1993, at 3, and Telecommunications Reports, Sep. 20, 1993, at 26.

<sup>7</sup>Bell Atlantic, TCI and Liberty Media Corp. announced on October 12, 1993, that they had signed a letter of intent to merge. See Telecommunications Reports, Oct. 18, 1993, at 3.

<sup>8</sup>Mark Robichaux, Cable Firms to Form Venture to Take On Phone Companies, Wall St. J., Dec. 2, 1993, at B2.

intent to deploy broadband networks in their service areas.<sup>9</sup> Furthermore, AT&T has agreed to purchase 100% of McCaw Cellular Communications, the nation's largest cellular provider.<sup>10</sup> These events, in combination with many other less newsworthy transactions, lead to one conclusion -- the environment in which LECs operate is changing dramatically. The Commission can help lay the foundation for a healthy competitive local exchange market by prescribing reasonable depreciation rates -- or it can skew competition by continuing with a "business-as-usual" approach to depreciation.

U S WEST, itself, has already recognized the inevitable by discontinuing the use of Financial Accounting Standard ("FAS") No. 71 for financial reporting purposes.<sup>11</sup> U S WEST

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<sup>9</sup>E.g., Pacific Bell announced its plans for a broadband network in California on November 11, 1993 (see Telecommunications Reports, Nov. 15, 1993, at 1-3); U S WEST announced its plan for a broadband network on February 4, 1993 (see Telecommunications Reports, Feb. 8, 1993, at 6-8); Bell Atlantic announced it will soon issue a request for quotations for a new video-capable technology platform that will accelerate the deployment of markets for video and interactive multimedia services on December 1, 1993 (see News Release "Bell Atlantic Accelerates Network Deployment," Dec. 12, 1993).

<sup>10</sup>AT&T announced a merger agreement between AT&T and McCaw Cellular Communications on August 16, 1993. See Telecommunications Reports, Aug. 23, 1993, at 3-7.

<sup>11</sup>The Financial Accounting Standards Board ("FASB") develops generally accepted accounting principles ("GAAP") for financial reporting purposes. FASB issued Statement of Financial Accounting Standard No. 71 ("FAS No. 71"), Accounting for the Effects of Certain Types of Regulation, to provide guidance for preparing general purpose financial statements for most public utilities. FAS No. 71 allows a regulated company to defer costs that will be recovered in future revenues (prices) if all of the following criteria can be met: a) the company is regulated,  
(continued...)

discontinued following FAS No. 71 because of impending competition. Discontinuance of FAS No. 71 resulted in a \$3.2 billion after-tax charge (the pre-tax charge was \$5.1 billion) associated with adopting shorter, market-based asset lives for U S WEST's facilities.<sup>12</sup> This charge was necessary due to continued use of unrealistic depreciation lives in regulated environments. U S WEST's discontinuance of FAS No. 71 fully complied with FAS No. 101<sup>13</sup> and was subject to Securities and Exchange Commission oversight, as well as review and acceptance by U S WEST's external auditors. This change ensures that U S WEST's financial reports will provide a more accurate reflection of the value of U S WEST's assets and their respective depreciation lives and depreciation expense.

While U S WEST was the first price cap LEC to discontinue following FAS No. 71 and employ more realistic depreciation lives for financial reporting purposes, it will not be the last. It is only a matter of time before other price cap LECs recognize the

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<sup>11</sup>(...continued)

2) prices are established using a cost basis, and 3) prices must be recoverable in light of competition.

<sup>12</sup>See U S WEST News Release, "U S WEST to Adopt Competitive Accounting Methods for Financial Reporting and to Record Special Charge for Customer Service Improvements," Sep. 17, 1993.

<sup>13</sup>Another accounting principle issued by FASB was FAS No. 101, Regulated Enterprises - Accounting for the Discontinuance of Application of FASB Statement No. 71. If a company fails to meet all three criteria of FAS No. 71, FAS No. 101 provides accounting guidance on how to report the discontinuance of FAS No. 71 for financial reporting purposes.

inevitable and take similar steps. As such, U S WEST urges the Commission to reconsider its depreciation decision and prescribe the Price Cap Option for price cap LECs. This will give these LECs the flexibility to adopt depreciation rates which reflect realistic economic lives rather than historical lives.

II. THE BASIC FACTORS RANGE MUST BE MODIFIED TO REDUCE ADMINISTRATIVE BURDEN AND GIVE LECS SUFFICIENT FLEXIBILITY TO OPERATE IN AN ENVIRONMENT DOMINATED BY TECHNOLOGICAL CHANGE AND COMPETITION

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If the Commission declines on reconsideration to allow price cap LECs to use the Price Cap Option, the Basic Factors Range must be modified. While the general language of the Commission's Order adopting BFR gives the impression that the Commission has liberalized its depreciation practices for price cap LECs, a closer examination shows that without further modification it will be "business as usual" over the next few years.

The Commission's Order adopting BFR does not allow price cap LECs to employ realistic depreciation lives, nor does it "simplify" the process. Only 185 of U S WEST's 507 state study categories are affected by the Commission's Order. These categories comprise approximately 10 percent of U S WEST's depreciable investment. Studies will still be required for the

remaining 322 state study categories covering approximately 90 percent of U S WEST's depreciable investment.<sup>14</sup> U S WEST is not unique in this regard; other price cap LECs have indicated that they will be affected in a similar manner by BFR. Thus, the use of BFR offers little, if any, flexibility in the near term and, if anything, will result in a greater administrative burden as BFR is implemented.

There is much that the Commission can do to make BFR a more viable option in the near term. These modifications can both serve the Commission's goals of simplification, administrative savings and flexibility<sup>15</sup> and provide much needed relief to price cap LECs without harming consumers. There is a significant gap between lives that are currently prescribed and those that are appropriate in a rapidly changing environment. The following table demonstrates that current service lives which are prescribed by the Commission are neither realistic nor representative of service lives used by domestic cable companies or telephone companies in other countries:

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<sup>14</sup>Prior to the release of the Commission's Order, Commission guidelines allowed for streamlined treatment in those cases where depreciation lives remain unchanged. This approach afforded LECs greater relief (i.e., more simplification) than the Commission's Depreciation Simplification Order.

<sup>15</sup>See Order ¶ 3.

DEPRECIATION LIVES (YEARS)

	<u>Digital Switch</u>	<u>Buried Copper</u>	<u>Underground Copper</u>	<u>Fiber</u>
Present U S WEST lives prescribed by FCC	17-19	25-28	25-29	30-32
FCC Proposed Ranges	None	None	25-30	25-30
U S WEST lives for financial reporting	10	20	15	20
Domestic Cable Companies	--	≤ 15	≤ 15	
International Telcos*				
- Japan	6	6	6	10
- France	10	15	15	10
- United Kingdom	10	15	15	20

\* Source: CTM Research

### III. THE COMMISSION SHOULD ADOPT THE BFR MODIFICATIONS PROPOSED BY USTA

USTA has spelled out many of the necessary modifications to BFR in its Petition for Reconsideration and, in the interests of efficiency, U S WEST will not repeat them herein. U S WEST urges the Commission to adopt USTA's modifications at the earliest possible date.

### IV. CONCLUSION

For the foregoing reasons, the Commission should modify its Depreciation Simplification Order and prescribe the Price Cap Option for price cap LECs for use in calculating depreciation rates. In the alternative, the Commission should modify its BFR

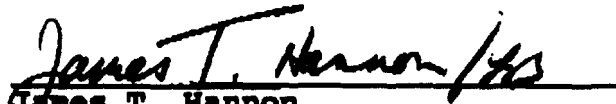


plan as USTA proposes in its Petition filed herein December 3,  
1993.

Respectfully submitted,

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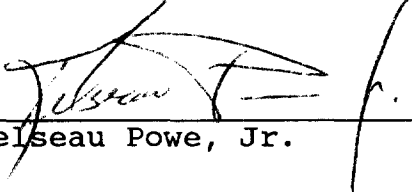
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December 6, 1993

**CERTIFICATE OF SERVICE**

I, Kelseau Powe, Jr., do hereby certify that on this 6th day of December, 1993, I have caused a copy of the foregoing **PETITION FOR RECONSIDERATION** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.

  
\_\_\_\_\_  
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